

REMARKS

Claims 1 - 21 are pending in the present patent application. The Examiner has rejected claims 1 - 21. Applicant respectfully requests reconsideration of claims 1 - 21 in view of at least the following remarks.

I. Rejection of Claims 1 - 21 Based on 35 U.S.C. § 103

The Examiner has rejected claims 1 - 21 under 35 USC §103(a) as being unpatentable over Ford (U.S. Patent No. 5786815) in view of Rafacz et. al (U.S. Patent No. 5940494). The Examiner states:

Regarding claims 1-21, see Ford: Abstract, Figures 1B, 8A, column 2 lines 16-48, column 3 lines 20-62 (note the GUI receiving input file data), column 4 lines 5-50 (note the widget elements, the nesting of data classes and class definitions), column 5 lines 1-40 and column 15 lines 5-36 (note the widget indicia that support the input data and modification of the screen widget elements). Ford may not specifically describe the showing the detection of the input device when identifying associated program source code, or thus showing the specific updating of the input device status, but he does show the display and modifications of GUI elements that support input source code. Furthermore, see Rafacz et al: Abstract, Figure 2, column 2 lines 44-60, column 4 lines 19-40 for example. This shows updating elements based on detecting input device data, in which the updating is reflected in a graphical change in the element. It would have been obvious to a person with ordinary skill in the art to incorporate this possible feature of modifying the element for input device detection, into the system of Ford, because it would provide an efficient way to display and modify GUI elements that support input source code.

Applicant's arguments filed have been fully considered but they are not persuasive. The citations above show the relevant portions of the patent. For example, see column 5 lines 10-22 in Ford. These show updating the GUI elements based on modifications in the input data file, which in turn are due to input device changes. The crux of the argument lies in the interpretation of applicants' claims. Note they are broad and any GUI that may change elements due to input device changes is relevant art. Note also that detecting and identifying screen elements, in view of the application, may be interpreted the same way. Applicant is invited to contact examiner to discuss claim language.

Applicant respectfully disagrees and submits that claims 1 - 21 are allowable for at least the following reasons:

1. Under 35 USC §103(c) and MPEP 706.02(l)(1), commonly owned references that qualify as prior art only under 35 USC 102(e) must be excluded.

Applicant filed a Continued Prosecution Application (CPA) on September 11, 2000 and thereby comes under the terms of 35 USC §103(c) and 35 USC §102(e), as amended, effective November 29, 1999. Applicant respectfully submits that Ford and the present application are commonly owned. Under 35 USC §103(c) and MPEP 706.02(l)(1) the commonly owned prior art must be excluded. 35 USC §103(c) states:

35 U.S.C. 103. Conditions for patentability; non-obvious subject matter.

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person

MPEP 706.02(l)(1) states:

Effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." This change to 35 U.S.C. 103(c) applies to all utility, design and plant patent applications filed on or after November 29, 1999, including continuing applications filed

under 37 CFR 1.53(b), continued prosecution application filed under 37 CFR 1.53(d), and reissues....

The mere filing of a continuing application on or after November 29, 1999 will serve to exclude commonly owned 35 U.S.C. 102(e) prior art that was applied, or could have been applied, in a rejection under 35 U.S.C. 103 in the parent application.

Both the Ford patent and the present application have been assigned to Sun Microsystems, Inc. of Mountain View, CA. Applicant believes that the subject matter of the Ford patent qualifies as prior art under 35 USC §102(e). 35 USC §102(e) applies to patents granted to others before the invention thereof by the Applicant. 35 USC §102(e) states:

**35 U.S.C. 102 Conditions for patentability; novelty and loss of right to patent.**

A person shall be entitled to a patent unless —

(e) the invention was described in—

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a);

Applicant respectfully submits that Ford should be disqualified as prior art under 35 USC §103(c) due to the common ownership of Applicant's application and Ford by Sun Microsystems, Inc.

Dependent Claims 1 - 21

Applicant respectfully submits that claims 1 - 21 being dependent upon respective allowable base claims are also allowable for at least the foregoing reasons stated above.



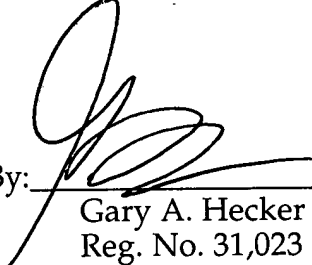
CONCLUSION

For at least the foregoing reasons, Applicant respectfully submits that pending claims 1 - 21 are patentably distinct from the prior art of record and in condition for allowance. Applicant therefore respectfully requests that pending claims 1 - 21 be placed in condition for allowance.

Respectfully submitted,

THE HECKER LAW GROUP

Date: June 13, 2001

By:   
Gary A. Hecker  
Reg. No. 31,023

THE HECKER LAW GROUP  
1925 Century Park East  
Suite 2300  
Los Angeles, California 90067  
(310) 286-0377

**CERTIFICATE OF MAILING**

*I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner of Patents, Washington, D.C. 20231, on June 12, 2001:*

 June 12, 2001  
Signature: Deanna E. Blizzard Date